

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Paul Vanhorn, et al.,

Plaintiffs,

v.

Alex Lape,
Sheriff of Fairfield County,

Defendant.

Case No. 2:24-cv-3597

Judge Michael H. Watson

Magistrate Judge Litkovitz

ORDER

Paul Vanhorn ("Vanhorn"), Christopher Cook ("Cook"), Jerry Knott ("Knott"), Anis Bared ("Bared"), and Benjamin Severance ("Severance", collectively, "Plaintiffs"), prisoners at the Fairfield County Jail, sue Fairfield County Sheriff Alex Lape. ECF No. 1-1.

Vanhorn did not pay any portion of the filing fee but submitted an incomplete motion to proceed in forma pauperis. ECF No. 1. The other Plaintiffs neither paid any portion of the filing fee nor submitted applications to proceed in forma pauperis. See ECF No. 1; Notice of Deficiency and Order, ECF No. 3; Deficiency Order, ECF No. 9; Deficiency Order, ECF No. 12. Plaintiffs failed to comply with multiple deficiency orders, despite being granted multiple extensions of time. Nor did any Plaintiff update his mailing address, despite multiple Court mailings having been returned as undelivered.

Accordingly, the Magistrate Judge eventually issued a Report and Recommendation ("R&R"), recommending the Court dismiss this case as to Vanhorn, Severance, Knott, and Bared for failure to prosecute. R&R, ECF No. 15. The R&R


notified the parties that they have a right to object to the recommendation and that failure to timely object would forfeit appellate rights. *Id.* at 3.

The deadline for objecting has passed, and no timely objections were filed. However, since issuance of the R&R, the jail has submitted inmate trust fund account statements for each Plaintiff. ECF Nos. 20–24. That submission seems to cure the incompleteness of Vanhorn’s application for leave to proceed in forma pauperis. Severance, Knott, and Bared, however, have still not paid the filing fee or moved for leave to proceed in forma pauperis.

Accordingly, the Court **ADOPTS** the R&R and **DISMISSES** the Complaint **WITHOUT PREJUDICE** as to Plaintiffs Severance, Knott, and Bared, under Federal Rule of Civil Procedure 41(b) for failure to prosecute. The Court **RETURNS** the matter to the Magistrate Judge for a determination of whether Vanhorn’s motion is now complete and whether, notwithstanding completeness, Vanhorn’s claims should still be dismissed for failure to prosecute. The Court **CERTIFIES** under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith.

The Clerk shall dismiss Severance, Knott, and Bared as Plaintiffs in this case but to leave the case open, for now, as to Cook and Vanhorn.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT